

REMARKS

Applicants submit this Reply in response to the non-final Office Action mailed August 14, 2008. Before this Reply, claims 25-48 were pending, of which claims 25 and 33 were independent. In the Office Action, the Examiner rejected claims 25-27, 30, 33-35, 38, and 41-48 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,397,062 ("Sessions"). The Examiner rejected claims 31 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Sessions in view of U.S. Patent Application Publication No. 2003/0231141 ("Alden et al."). Finally, the Examiner identified allowable subject matter in claims 28, 29, 32, 36, 37, and 40, and objected to these claims as being dependent on rejected base claims.

In this response, Applicants have amended claims 25-28, 33-36, 41, 42, and 44-48, where claims 41, 44, and 48 have been amended to place them in independent form. Applicants have canceled claim 43 without prejudice or disclaimer. Accordingly, claims 25-42 and 44-48 are currently pending, of which claims 25, 33, 41, 44, and 48 are independent. Applicants respectfully traverse all pending rejections and request reconsideration of the application, as presently amended.¹

Rejections Under 35 U.S.C. § 102(b)

Applicants respectfully traverse the Section 102(b) rejections of claims 25-27, 30, 33-35, 38, and 41-48. In order to properly establish an anticipation rejection under 35 U.S.C. § 102(b), every element of the claims at issue must be found in the applied

¹ The Office Action contains a number of statements reflecting characterizations of the specification, claims, and related art. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

prior-art reference, either expressly or under principles of inherency. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). In this case, Sessions fails to teach or suggest every element of Applicants’ invention.

Independent method claim 25, as amended, calls for a combination including, for example, “defining a propagation model for estimating the field received from the at least one source of electromagnetic field at a determined position of a territory,” “modifying the propagation model according to topology characteristics of the at least one source of electromagnetic field,” and “using the modified propagation model to estimate the field received from the at least one source of electromagnetic field at the determined position of the territory.” Applicants submit that Sessions fails to disclose or suggest at least “modifying the propagation model according to topology characteristics of the at least one source of electromagnetic field” and “using the modified propagation model to estimate the field received from the at least one source of electromagnetic field at the determined position of the territory,” as recited in independent claim 25.

Sessions discloses a system and method to simultaneously evaluate multiple elevations of potential wireless base station sites. See, e.g., Sessions, Title. To that end, Sessions discloses “multiple antennas attached to an elevating device, such as a crane or cherry picker.” Sessions, col. 1, ll. 18-20; FIG. 2 (showing crane 104 with multiple antennas 102, 202 attached to the crane at different elevations). By positioning the multiple antennas on the same crane 104, Sessions discloses that wireless service providers can “simultaneously evaluate field strengths of wireless transmission paths at

multiple elevations of potential base station sites.” Sessions, col. 3, ll. 55-57. Each test antenna on the crane “transmits on a unique channel in order to differentiate the elevation of each antenna.” Sessions, col. 2, ll. 49-51. Sessions discloses measuring the field strengths transmitted from the different crane elevations at various points within a potential cellular territory. See, e.g., Sessions, col. 2, ll. 3-8 and 54-56.

Because Sessions teaches a system and method that measures the field transmitted from multiple antennas 102, 202 positioned at different elevations on the crane 104, Sessions does not also define a propagation model that estimates the transmitted field at a determined position of a territory. In fact, there would be no reason to estimate the transmitted field in Sessions, since the field strength is already known from direct field measurements at various points in the cellular territory. See, e.g., Sessions, col. 2, ll. 3-8 and 54-56. Moreover, Sessions’s description of a field measurement system expressly teaches away from estimating the field strength using mathematical formulae. Specifically, Sessions discloses that:

As most cellular designers recognize, the most reliable field strength measurements are obtained when signals are broadcast from the actual site itself . . . [t]he field strength could be estimated using mathematical formulae, but these formulae require several correction factors [a]n actual transmission from or near the potential site, called a ‘survey,’ is therefore necessary to accurately evaluate cellular transmission and reception.

Sessions, col. 1, ll. 60-65.

Not only does Sessions teach away from estimating field strengths (as opposed to measuring the field strengths) at various points in the cellular territory, but Sessions is also silent regarding the use of a “propagation model for estimating the field received from the at least one source of electromagnetic field,” as recited in Applicants’ amended

independent claim 25. Consequently, Sessions fails to disclose or suggest using any propagation model(s) that could be modified according to topology characteristics, as claimed. Because of the complete absence in Sessions of the claimed “propagation model,” Sessions fails to disclose or suggest at least “modifying the propagation model according to topology characteristics” and “using the modified propagation model to estimate the field,” as recited in Applicants’ amended independent claim 25.

Applicants’ amended independent claims 33, 41, 44, and 48, although different in scope from amended independent claim 25, recite similar subject matter and are therefore allowable for at least the same reasons. Dependent claims 26-30, 32, 34-38, 40, 42, and 45-47 depend on independent claims 25, 33 and 41 and are therefore also allowable for at least the same reasons.

Rejections Under 35 U.S.C. § 103(a)

The Examiner rejected dependent claims 31 and 39 for being unpatentable under 35 U.S.C. § 103(a) over Sessions in view of Alden et al. Notwithstanding any teachings of Sessions or Alden et al. relative to the subject matter of claims 31 and 39, dependent claims 31 and 39 respectively depend on independent claims 25 and 33 and are therefore allowable for at least the same reasons.

Conclusion

The preceding remarks are based only on the arguments in the pending Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability are advanced without prejudice to other

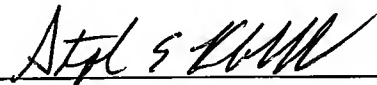
possible bases of patentability. In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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